IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

LA.App.No. 256 of 2004(D)

LAR.175/1999 of SUB COURT, THALASSERY
.....

APPELLANTS/RESPONDENTS:
----

1. **STATE OF KERALA,**
   REP. BY THE SPECIAL TAHSILDAR (LA),
   KANNUR (NH).

2. **THE EXECUTIVE ENGINEER,**
   N.H. DIVISION, KANNUR.

BY GOVERNMENT PLEADER SRI. K.V. MANOJ.

RESPONDENT/CLAIMANT:

PONNIYODATH NARAYANAN (POWER OF ATTORNEY HOLDER OF CHAKKADATH RAMAKRISHNAN),
NEAR INDERI TEMPLE, KADAMBUR, P.O. EDAKKAD.

BY ADV. SRI. V. RAJAGOPAL

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. NO. 256 OF 2004

Dated this the 25th day of September, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal filed against the judgment and decree in L.A.R. No. 175/1999 on the file of Sub Court, Thalassery. Acquisition is for the re-alignment of NH-17 in Kadambur village. The property involved is only around 5.409 cents. The Land Acquisition Officer awarded Rs. 3,000/- per cent. The basic land is 100 metres away from the acquired property.

2. It has come out from the report of the Advocate Commissioner that the said property was originally wet land whereas the acquired property is garden land. Though no contemporaneous document is available, two documents of the year 1995 and 2000 were produced. The document in the year 2000 is Exhibit A1 executed in favour of Indian Oil Corporation where the value is Rs. 62,000/- per cent. Exhibit A2 executed in 1995 is in favour of T.V. Sundaram Iyyengar & Sons where the land value is Rs. 45,000/- per cent. Therefore, on a comparative valuation of progressive escalation on the price in that area and

taking note of the report of the Advocate Commissioner that the property covered by Exhibits A1 and A2 are comparable with the acquired property and also the further report that the acquired property would fetch Rs. 45,000/-, and yet discarding the report of the Advocate Commissioner regarding the land value, on an overall assessment of the entire situation, reference court fixed the land value at the rate of Rs. 25,000/- per cent. There is no contra evidence.

In the facts and circumstances of the case as discussed above, we are of the view that the value fixed by the reference court is just, proper and reasonable. There is no merit in this appeal and hence it is dismissed.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE

smp